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Cause No. 006-02654-2017

DARLENE C. AMRHEIN, Plaintiff, Pro Se **IN THE COUNTY COURT AT**

VS. **LAW NO. 6**

ATTORNEY LENNIE BOLLINGER, et al **COLLIN COUNTY, TEXAS**

WORMINGTON & BOLLINGER LAW FIRM, ET AL, AND ADDED DEFENDANTS: PROSPERITY BANK, et al, VP. JO'EL ELONY, KEENA CLIFTON, NAOMI THAMES, CHRISTINA SANDERS, SANDRA MCDONALD, SUSAN ALGER, et al, MUSKAT, MAHONY, DEVINE LAW FIRM , ET AL, ATTORNEY MICHELLE MAHONY, ATTORNEY JOHN GRUFF, UNITED STATES EASTERN DISTRICT COURT, MAGISTRATE JUDGE CHRISTINE NOWAK, COBB, MARTINEZ, WOODLAND LAW FIRM ATTORNEY CARRIE JOHNSON PHANEUF, COUNTY COURT AT LAW NO. 6 AND JUDGE JAY BENDER, ALL DEFENDANTS

PLAINTIFF'S REQUEST FINDING OF FACTS & CONCLUSION OF LAW IN MAY 14, 2018 COURT ORDER AS MISSING & REQUIRED

Comes Now, Plaintiff Darlene C. Balistreri-Amrhein to file Plaintiff's Requested Finding of Facts & Conclusion of Law From May 14, 2018 Court Order As Missing & Required :

1) **Findings of fact and conclusions of law** lay out the court's rationale and the decisions it made in deciding a case from bench. & requested 2 days after signed Order;

2) **As the name implies,** the document specifically lays out the court's findings regarding the controlling factual issues of a claim or defense, and then explains how the court used those facts to form the basis for its conclusions of law;

3) **It is important to obtain this information** from the trial court because without it, the appellate court is left to guess what legal theory the trial court used to decide the case;

4) **Obtaining Findings of Fact and Conclusions of Law** is not difficult, but it does require Texas Rules of Civil Procedure Rule 296 allows a party in any case tried in a district or county court without a jury to request that the trial court state in writing its findings of fact & conclusions of law; (Judge Bender state in writing fact & conclusions);

5) **The request must be filed with the court within twenty days after the judgment** is signed, and the request must be served on all other parties in the case;

6) **Findings of Fact and Conclusions of Law** may also be requested after other proceedings such as a sanctions judgment;

7) **Findings always required — certain types of orders**. Despite the language of Rule 52, our courts have determined that orders on certain specific types of motions must contain written findings of fact and conclusions of law even if a party does not request them. Some notable examples include:

- **Rule 11 orders**. Findings and conclusions should be included in a court's order granting or denying a motion for sanctions under Rule 11 of the Rules of Civil Procedure. *Krantz v. Owens*, 168 N.C. App. 384 (2005);

- **Failure to do so will result in remand** unless record reveals no basis upon which court could have awarded sanctions. *Sholar Bus. Assocs. v. Davis*, 138 N.C. App. 298 (2000);

- **Attorney fee awards generally**: An attorney fee award should always include the statutory basis for the award;

  It must also include findings of fact and conclusions of law as to the factors in *Washington v. Horton*, 132 N.C. App. 347 (1999), where relevant, and the dollar amount awarded, taking into consideration (1) time and labor expended; (2) skill required; (3) customary fees for like work; and (4) experience and ability of the attorney. *Furmick v. Miner*, 154 N.C. App. 460 (2002); not cover up, eliminate, relabate + factors;

- **Attorney fee awards** : Specific findings reflecting the statutory basis for the fee must be included in the order. *McKinnon v. CV Industries, Inc.*, 228 N.C. App. 190 (2013).

- **If, however, the trial court denied the fee** in its discretion, a failure to include findings may not require remand. *Brooks Wilkins Fam. Med., P.A. v. Wakemed*, 784 S.E.2d 178 (N.C. App. 2016);

- **Rule 9(j) dismissals.** The trial court must make written findings of fact to support its conclusion that a Rule 9(j) certification in a medical malpractice complaint was not supported by the facts in the record. *Estate of Wooden ex rel. Jones v. Hillcrest Convalescent Ctr., Inc.*, 222 N.C. App. 396 (2012);

8) **When other statutes govern.** Rule 52 governs civil orders generally, but it is important to note that many types of orders are covered by more specific statutes;

Rule of Civil Procedure 65, for example, requires certain specific findings for TROs and preliminary injunctions;

Chapter 50 governing divorce and alimony, which requires specific findings for certain types of orders, and Chapter 5A, which requires that certain findings appear in orders adjudicating contempt. Of further note is Chapter 7B, which governs abuse, neglect, or

dependency of juveniles and termination of parental rights, and mandates findings for certain types of orders, such ceasing reasonable efforts for reunification (G.S. 7B-901(c), 7B-906.2(b)) and review and permanency planning orders (G.S. 7B-906.1). Our now-retired colleague Professor Janet Mason described Chapter 7B as taking an "unusually prescriptive approach to orders" and noted the importance of including all statutorily mandated findings to avoid remand;

__Civil Practice & Remedies Code Chapter 11**__ states 5 Adverse Orders over a 7 year period against Plaintiff to be found & referred to as a "vexatious litigant," yet Defendants offered **"no Adverse Orders to support their false claims, by this statute"** as notice given to this Court prior to May 14, 2018 Order signed by this Court & Judge Bender;

9) __In law, a question of law__, also known as a **point of law**, is a question that must be answered by applying relevant legal principles to interpretation of the law;

Such a question is distinct from a **question of fact**, which must be answered by reference to facts and evidence as well inferences arising from those facts;

__Answers to questions of law are expressed in terms of broad legal principles__ and can be applied to many situations rather than be dependent on particular circumstances or factual situations;

__An answer to a question of law as applied to the particular facts__ of a case is often referred to as a "conclusion of law;"

10) __In several civil law jurisdictions,__ the highest courts consider questions of fact settled by the lower court and will only consider questions of law, but in this lawsuit no facts were considered by this lower court, no proper jurisdiction, wrong value of case & obvious prejudice, bias & "conflict of interest" to prevent this lawsuit from being heard;

__They may refer a case back__ to a lower court to re-apply the law and answer any fact-based evaluations based on their answer on the application of the law;

11) __While questions of fact are resolved by a *trier of fact,*__ which in the common law system is often a jury, questions of law are always resolved by a judge or equivalent;

12) __Whereas findings of fact in a common law legal system__ rarely overturned by an appellate court, conclusions of law are more readily reconsidered, especially if not applied with any reason applied to the existing clearly stated laws that apply;

13) __Question of Fact__

__In law, a question of fact, also known as a point of fact__, is a question that must be answered by reference to facts & evidence as well as inferences arising from those facts;

__Such a question is distinct from a question of law,__ which must be answered by applying relevant legal principles;

__The answer to a question of fact__ (a "**finding of fact**") usually depends on particular circumstances or factual situations as contained in this lawsuit with detailed filings;

14) **All questions of fact are capable of proof or disproof** by reference to a certain standard of proof; (Judge Bender should have read Plaintiff's filings for truth & facts.)

Depending on the nature of the matter, the standard of proof may require that a fact be proven to be "more likely than not" (there is barely more evidence for fact than against, established by a preponderance of the evidence) or true beyond reasonable doubt, but if the judge of said Court never considers any proof or evidence & makes a Order Judgment based on frauds, falsities & Obstruction of Justice & Fraud Upon Courts then it is remanded back for "due process," facts, application of laws & valid conclusions;

15) **Answers to questions of fact are determined by a trier of fact** such as a jury, or a judge, but in this lawsuit this Judge does not have jurisdiction to hear this lawsuit, considers no evidence, applies no laws, signs Order with no supported evidence , dismisses the lawsuit, applies attorneys fees for conspiracy in violation of several laws, misconduct, threats, cover up, collusions violated Civil Rights Act, U.S. & Texas Constitutional Rights, based on fraudulent claims known with no supported evidence, which is bias, prejudice, favoritism, conflict of interest, unjust enrichments, unfairness & frauds, possible bribe or deal making, known as corruption against judicial system ;

16) **The distinction between "law" and "fact"** has proved obscure wherever it is employed. For instance, the common law used to require that a plaintiff's complaint in a civil action only state the "facts" of his case, not any "legal conclusions;"

Unfortunately, no one has ever been able to tell whether the allegation that "on November 9, the defendant negligently ran over plaintiff with his car at the intersection of State Street and Chestnut Street" is a statement of fact or a legal conclusion;

In fact, the distinction between law and fact is just the legal version of the philosophical distinction between "empirical" and "analytical" statements, a distinction on whose existence philosophers have been unable to agree to this day.... we will see that many defendants charged with impossible attempts are not in fact attempting the crime they are charged with attempting. They merely think they are committing a crime.... It would be merely foolish to assert that it is of no interest whatever to know that *The Disciples* is a forgery;

But to the man who has never heard of either Vermeer or van Meegeren and who stands in front of *The Disciples* admiring it, it can make no difference whether he is told that it is a seventeenth-century Vermeer or a twentieth-century van Meegeren in the style of Vermeer;

And when some deny this and argue vehemently that, indeed, it does make a great deal of difference, they are only admitting that *they* do know something about Vermeer and van Meegeren and the history of art and the value and reputation of certain masters;

They are only admitting that they do not judge a work of art on purely aesthetic grounds, but also take into account when it was created, by whom, and how great a reputation it or its creator has, which amounts to additional details for their decisions & evaluations;

17) In this lawsuit the decision was to be made by a jury of peers, which was denied to Plaintiff, along with the facts of this case, all evidence to be presented, all sworn testimony to be given, all opening & closing statements & all arguments based on the facts of this lawsuit by an un bias trier of fact with no bias, no prejudice, no "conflict of interest, in search of truth for fairness, "due process" & outcome of Justice was denied;

18) Judge Bender is a criminal Judge sitting in a lawsuit with Federal & Texas criminal acts, to which he is a participant as an "ordinary person, pretending to be a judge with no jurisdiction making all his Orders & judgments as legal nullity & not enforceable;"

No fictitious entity has jurisdiction over people. Fictitious entities are merely ink on paper as in this lawsuit with Judge Bender knowingly acting without any authority;

- Jurisdiction can be challenged at any time and once challenged, cannot be assumed and must be decided. ***Basso v. Utah Power & Light Co.*, 495 F 2d 906, 910**;

- "...there is, as well, no discretion to ignore that lack of jurisdiction." ***Joyce v. US*, 474 F2d 215;**

- "A court lacking jurisdiction cannot render judgment but must dismiss the cause at any stage of the proceedings in which it becomes apparent that jurisdiction is lacking." **Bradbury v. Dennis, 310 F.2d 73 (10th Cir. 1962);**

- The burden shifts to the court to prove jurisdiction. ***Rosemond v. Lambert*, 469 F2d 416;**

- ...if the issue is presented in any way the burden of proving jurisdiction rests upon him who invokes it. ***Latana v. Hopper*, 102 F. 2d 188;**

- When it clearly appears that the court lacks jurisdiction, the court has no authority to reach the merits. In such a situation the action should be dismissed for want of jurisdiction." ***Melo v. United States, 505 F. 2d 1026;***

- Court must prove on the record, all jurisdiction facts related to the jurisdiction asserted. ***Latana v. Hopper*, 102 F. 2d 188; *Chicago v. New York*, 37 F Supp. 150, which was never done in case;**

- No officer can acquire jurisdiction by deciding he has it. The officer, whether judicial or ministerial, decides at his own peril." ***Middleton v. Low* (1866), 30 C. 596, citing *Prosser v.Secor* (1849), 5 Barb.(N.Y) 607, 608;**

- Where a court has jurisdiction, it has a right to decide any question which occurs in the cause, and whether its decision be correct or otherwise, its judgments, until reversed, are regarded as binding in every other court, but wearing a black robe, sitting in a court room behind a bench, by an assignment of a Administrative Judge Mary Murphy, who was remove & admitted to assignment errors in her position, for a reduced amount of value in the wrong jurisdiction does not make Judge Jay Bender a judge in any form because he says so to acquire unjust enrichments against a senior,

ill, disabled, poor, "protected class" Plaintiff to protect ruthless fraudulent attorneys is not fairness, honor, justice with "void judgments" that are not enforceable as they are allowed to violate civil rights, U.S. & Texas Constitutional Rights to Obstruct Justice, commit perjury, felonies & Frauds Upon Courts to threaten & destroy the legal profession & judicial system machinery by misconduct & unethical practices for their own unjust enrichments, abuse of discretion & by no authority;

- But if it acts without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void, and form no bar to a remedy sought in opposition to them, even prior to a reversal, so threats, intimidation & frauds, along with all other crimes committed by this Court & Judge Jay Bender with all named Defendants are not protected by any "immunities," because those acts are not "judicial duties," but grounds for removal of positions & licenses as trespassers;

- They constitute no justification, and all persons concerned in executing such judgments or sentences are considered in law as trespassers. ***Elliott v Peirsol*, 1 Pet. 328, 340, 26 U.S. 328, 340, 7L.Ed. 164 (1828);**

- Thus, where a judicial tribunal has no jurisdiction of the subject matter on which it assumes to act, its proceedings are absolutely void in the fullest sense of the term." ***Dillon v. Dillon*, 187 P 27;**

IN CONCLUSION, ALTERNATIVES, RELIEF SOUGHT & PRAYERS

Judge Jay Bender has no authority, no jurisdiction, no discretion, no enforcement of laws, no consideration of evidence, is incompetent, assigned in error, ignored all facts, all evidence, all medical stay, interfered with Plaintiff's medical treatments causing personal injuries, unjustified delays, duplication of Medicare & medical costs, did not read & evaluate any of Plaintiff's filings based on laws & facts, continued to conspire, harass & slander Plaintiff for the protection of fraudulent Attorneys / Defendants to violate & destroy Plaintiff, extort money for frauds, conspiracy, cover up, character assassination, abuse of discretion, abuse of authority, unethical practices, threats, violated federal & Texas laws, statutes, 2 Constitutions & all Plaintiff's civil rights, by discriminations of age, gender, disability, poor, pro se litigant, for their unjust enrichments in abuse of their oaths, licensing as frauds to knowingly cause Plaintiff's personal injuries & harms as a corrupt, bias, prejudicial con, scheme & scam to protect illegal activities to Obstruct Justice, commit perjury, felonies as reported to all authorities to disbar & impeach.

Alternatives – Cite statutes & laws to prove "vexatious litigant" does not require any final or Adverse Orders as in this case & is based only on filing a lawsuit for damages. Cite laws on blacklisting conspiracy, denied medical stay, harassments, perjury, felonies & abuses are legal & approved as matter of laws. Cite law that allows all judges to avoid service of citations to prevent exposures of illegal acts as judge as "judicial duties for immunities." Cite laws that claims all Attorneys are privileged & above all laws, so framing Plaintiff is permitted & proper jurisdiction is not needed to sign any Orders, or

reverse the May 14, 2018 Order completely as not valid, not supported with any evidence, which makes Plaintiff's Notice of Appeal & Docket Statement moot, declare in writing this lawsuit is on "inactive docket" as Plaintiff is on ADA "Medical Stay" until 6 months from June 21, 2018 surgery if no complications & by Court Order to recuse this Court & Judge Bender for incorrect jurisdiction on value over $200,000.00 & all effective immediately & written. (Want of Jurisdiction) DA

Relief Sought : Reverse & Remand everything done by this corrupt Court & Judge Bender. Reverse & Remand every Order as "void judgments" & legal nullity. Serve all named & listed Defendants as stated in this lawsuit for process in this lawsuit. File sanctions against all named Defendants for the cover up, conspiracy, etc. Seat an un bias trier of fact, consider all evidence, provide a jury trial with all components for a fairness, "due process," & just outcome after Plaintiff's "Medical Stay" & recovery 6 months from June 21, 2018. The Notice of Appeal & all court records, should be an easy reversal & remand with conditions & reporting all charges to the Judicial Commission, District Attorney, State Bar of Texas, Attorney General, Administrative Regional Judge, Texas Governor, Department of Justice / U.S. Attorney for civil & criminal acts in lawsuit & all penalties must be applied to the fullest extent of the Rule of Law, as a matter of law & under the colour of law, with "equal protection" afforded to Plaintiff on each issue.

Prayers that all Defendants will be charged to the fullest extent of Federal & Texas Laws for their crimes & that this entire lawsuit is heard & decided on each & every stated claims for all Parties as required by rules, statutes, laws, civil & Constitutional Rights !No one is above or below the Law, which includes judges, attorneys & clerks. All law Firms & their Attorneys are no Defendants in this lawsuit for their participations. Defendants Attorney Bollinger & Wormington & Bollinger, et al have now added additional stated claims & crimes to lawsuit as responsible for these corrupt Attorneys. The bribe submitted when lawsuit filed Oct. 2017 ($3,000) was beginning of bribes that appeared to be made by these Attorneys to this Judge for favorable ruling, no matter the conditions & laws violated as their "fix was in to get Plaintiff, no matter what was done that now has affected your lives by "bad faith"intent & bad choices as legal professionals engaged in illegal acts & treason. Finding of Fact & Conclusion of Law disclosed should be simple & timely before this Appeal. Obvious was ordered citations for all Defendants including Judge Bender & this Court was Ordered before May 14, 2018 & received on May 14, 2018, when this Order was signed & sent to Attorney Phaneuf as one conspirator to stop legal action against all crimes committed against Plaintiff. **(Exhibits A- D) and (See All Following Rules, Regulations & Case Law On "Void Judgments" & No Proper Jurisdiction Applying To This Lawsuit As Stated & Attached To This Filing.**

(Exhibits A to D) Darlene C. Balistreri-Amrhein

Respectfully submitted, Darlene C. Balistreri-Amrhein, Plaintiff, Pro Se 5/15/2018

Abuse of Discretion! 5/15/18

DA

EVERYTHING YOU ALWAYS WANTED TO KNOW ABOUT VOID JUDGMENTS BUT WERE AFRAID TO ASK!

Void judgments are those rendered by a court which lacked jurisdiction, either of the subject matter or the parties, *Wahl v. Round Valley Bank* 38 Ariz. 411, 300 P. 955 (1931); Tube City Mining & Milling Co. v. Otterson, 16 Ariz. 305, 146 P. 203 (1914); and Milliken v. Meyer, 311 U.S. 457, 61 S.Ct. 339, 85 L.Ed. 2d 278 (1940).

A void judgment which includes judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court, *Long v. Shorebank Development Corp.*, 182 F.3d 548 (C.A. 7 Ill. 1999).

A void judgment is one which, from its inception, was a complete nullity and without legal effect, *Lubben v. Selevtive Service System Local Bd. No. 27*, 453 F.2d 645, 14 A.L.R. Fed. 298 (C.A. 1 Mass. 1972).

A void judgment is one which from the beginning was complete nullity and without any legal effect, *Hobbs v. U.S. Office of Personnel Management*, 485 F.Supp. 456 (M.D. Fla. 1980).

Void judgment is one that, from its inception, is complete nullity and without legal effect, *Holstein v. City of Chicago*, 803 F.Supp. 205, reconsideration denied 149 F.R.D. 147, affirmed 29 F.3d 1145 (N.D. Ill 1992).

Void judgment is one where court lacked personal or subject matter jurisdiction or entry of order violated due process, U.S.C.A. Const. Amend. 5 - Triad Energy Corp. v. McNell 110 F.R.D. 382 (S.D.N.Y. 1986).

Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A., U.S.C.A. Const. Amend. 5 - *Klugh v. U.S.*, 620 F.Supp. 892 (D.S.C. 1985).

A void judgment is one which, from its inception, was, was a complete nullity and without legal effect, *Rubin v. Johns*, 109 F.R.D. 174 (D. Virgin Islands 1985).

A void judgment is one which, from its inception, is and forever continues to be absolutely null, without legal efficacy, ineffectual to bind the parties or to support a right, of no legal force and effect whatever, and incapable of enforcement in any manner or to any degree - *Loyd v. Director, Dept. of Public Safety*, 480 So. 2d 577 (Ala. Civ. App. 1985).

A judgment shown by evidence to be invalid for want of jurisdiction is a void judgment or at all events has all attributes of a void judgment, *City of Los Angeles v. Morgan*, 234 P.2d 319 (Cal.App. 2 Dist. 1951).

Void judgment which is subject to collateral attack, is simulated judgment devoid of any potency because of jurisdictional defects, *Ward v. Terriere*, 386 P.2d 352 (Colo. 1963).

A void judgment is a simulated judgment devoid of any potency because of jurisdictional defects only, in the court rendering it and defect of jurisdiction may relate to a party or parties, the subject matter, the cause of action, the question to be determined, or relief to be granted, *Davidson Chevrolet, Inc. v. City and County of Denver*, 330 P.2d 1116, certiorari denied 79 S.Ct. 609, 359 U.S. 926, 3 L.Ed. 2d 629 (Colo. 1958).

Void judgment is one entered by court without jurisdiction of parties or subject matter or that lacks inherent power to make or enter particular order involved and such a judgment may be attacked at any time, either directly or collaterally, *People v. Wade*, 506 N.W.2d 954 (Ill. 1987).

Void judgment may be defined as one in which rendering court lacked subject matter jurisdiction, lacked personal jurisdiction or acted in manner inconsistent with due process of law *Eckel v. MacNeal*, 628 N.E. 2d 741 (Ill. App. Dist. 1993).

Void judgment is one entered by court without jurisdiction of parties or subject matter or that lacks inherent power to make or enter particular order involved; such judgment may be attacked at any time, either directly or collaterally *People v. Sales*, 551 N.E.2d 1359 (Ill.App. 2 Dist. 1990).

Res judicata consequences will not be applied to a void judgment which is one which, from its inception, is a complete nullity and without legal effect, *Allcock v. Allcock*, 437 N.E. 2d 392 (Ill. App. 3 Dist. 1982).

Void judgment is one which, from its inception is complete nullity and without legal effect In re Marriage of Parks, 630 N.E. 2d 509 (Ill.App. 5 Dist. 1994). Void judgment is one entered by court that lacks the inherent power to make or enter the particular order involved, and it may be attacked at any time, either directly or collaterally; such a judgment would be a nullity. *People v. Rolland*, 581 N.E.2d 907, (Ill.App. 4 Dist. 1991).

Void judgment under federal law is one in which rendering court lacked subject matter jurisdiction over dispute or jurisdiction over parties, or acted in manner inconsistent with due process of law or otherwise acted unconstitutionally in entering judgment, U.S.C.A. Const. Amed. 5, *Hays v. Louisiana Dock Co.*, 452 n.e.2D 1383 (Ill. App. 5 Dist. 1983).

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A void judgment has no effect whatsoever and is incapable of confirmation or ratification, Lucas v. Estate of Stavos, 609 N. E. 2d 1114, rehearing denied, and transfer denied (Ind. App. 1 dist. 1993). Void judgment is one that from its inception is a complete nullity and without legal effect *Stidham V. Whelchel*, 698 N.E.2d 1152 (Ind. 1998).

Relief from void judgment is available when trial court lacked either personal or subject matter jurisdiction, Dusenberry v. Dusenberry, 625 N.E. 2d 458 (Ind.App. 1 Dist. 1993).

Void judgment is one rendered by court which lacked personal or subject matter jurisdiction or acted in manner inconsistent with due process, U.S.C.A. Const. Amends. 5, 14 *Matter of Marriage of Hampshire*, 869 P.2d 58 (Kan. 1997).

Judgment is void if court that rendered it lacked personal or subject matter jurisdiction; void judgment is nullity and may be vacated at any time, *Matter of Marriage of Welliver*, 869 P.2d 653 (Kan. 1994).

A void judgment is one rendered by a court which lacked personal or subject matter jurisdiction or acted in a manner inconsistent with due process. In *re Estate of Wells*, 983 P.2d 279, (Kan. App. 1999).

Void judgment is one rendered in absence of jurisdiction over subject matter or parties, 310 N.W. 2d 502, (Minn. 1981).

A void judgment is one rendered in absence of jurisdiction over subject matter or parties, *Lange v. Johnson*, 204 N.W.2d 205 (Minn. 1973).

A void judgment is one which has merely semblance, without some essential element, as when court purporting to render is has no jurisdiction, *Mills v. Richardson*, 81 S.E. 2d 409, (N.C. 1954).

A void judgment is one which has a mere semblance, but is lacking in some of the essential elements which would authorize the court to proceed to judgment, *Henderson v. Henderson*, 59 S.E. 2d 227, (N.C. 1950).

Void judgment is one entered by court without jurisdiction to enter such judgment, *State v. Blankenship*, 675 N.E. 2d 1303, (Ohio App. 9 Dist. 1996).

Void judgment, such as may be vacated at any time is one whose invalidity appears on face of judgment roll, *Graff v. Kelly*, 814 P.2d 489 (Okl. 1991).

A void judgment is one that is void on face of judgment roll, *Capital Federal Savings Bank v. Bewley*, 795 P.2d 1051 (Okl. 1990).

Where condition of bail bond was that defendant would appear at present term of court, judgment forfeiting bond for defendant's bail to appear at subsequent term

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was a void judgment within rule that laches does not run against a void judgment, *Com. V. Miller*, 150 A.2d 585 (Pa. Super. 1959).

A void judgment is one in which the judgment is facially invalid because the court lacked jurisdiction or authority to render the judgment, *State v. Richie*, 20 S.W.3d 624 (Tenn. 2000).

Void judgment is one which shows upon face of record want of jurisdiction in court assuming to render judgment, and want of jurisdiction may be either of person, subject matter generally, particular question to be decided or relief assumed to be given, *State ex rel. Dawson v. Bomar*, 354 S.W. 2d 763, certiorari denied, (Tenn. 1962).

A void judgment is one which shows upon face of record a want of jurisdiction in court assuming to render the judgment, *Underwood v. Brown*, 244 S.W. 2d 168 (Tenn. 1951).

A void judgment is one which shows on face of record the want of jurisdiction in court assuming to render judgment, which want of jurisdiction may be either of the person, or of the subject matter generally, or of the particular question attempted to decided or relief assumed to be given, *Richardson v. Mitchell*, 237 S.W. 2d 577, (Tenn.Ct. App. 1950).

Void judgment is one which has no legal force or effect whatever, it is an absolute nullity, its invalidity may be asserted by any person whose rights are affected at any time and at any place and it need not be attacked directly but may be attacked collaterally whenever and wherever it is interposed, *City of Lufkin v. McVicker*, 510 S.W. 2d 141 (Tex. Civ. App. - Beaumont 1973).

A void judgment, insofar as it purports to be pronouncement of court, is an absolute nullity, *Thompson v. Thompson*, 238 S.W.2d 218 (Tex.Civ.App. - Waco 1951).

A void judgment is one that has been procured by extrinsic or collateral fraud, or entered by court that did to have jurisdiction over subject matter or the parties, *Rook v. Rook*, 353 S.E. 2d 756, (Va. 1987).

A void judgment is a judgment, decree, or order entered by a court which lacks jurisdiction of the parties or of the subject matter, or which lacks the inherent power to make or enter the particular order involved, *State ex rel. Turner v. Briggs*, 971 P.2d 581 (Wash. App. Div. 1999).

A void judgment or order is one that is entered by a court lacking jurisdiction over the parties or the subject matter, or lacking the inherent power to enter the particular order or judgment, or where the order was procured by fraud, In *re Adoption of E.L.*, 733 N.E.2d 846, (Ill.App. 1 Dist. 2000).

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Void judgments are those rendered by court which lacked jurisdiction, either of subject matter or parties, *Cockerham v. Zikratch*, 619 P.2d 739 (Ariz. 1980).

Void judgments generally fall into two classifications, that is, judgments where there is want of jurisdiction of person or subject matter, and judgments procured through fraud, and such judgments may be attacked directly or collaterally, *Irving v. Rodriquez*, 169 N.E.2d 145, (Ill.app. 2 Dist. 1960).

Invalidity need to appear on face of judgment alone that judgment or order may be said to be intrinsically void or void on its face, if lack of jurisdiction appears from the record, *Crockett Oil Co. v. Effie*, 374 S.W.2d 154 (Mo.App. 1964).

Decision is void on the face of the judgment roll when from four corners of that roll, it may be determined that at least one of three elements of jurisdiction was absent: (1) jurisdiction over parties, (2) jurisdiction over subject matter, or (3) jurisdictional power to pronounce particular judgment hat was rendered, *B & C Investments, Inc. v. F & M Nat. Bank & Trust*, 903 P.2d 339 (Okla. App. Div. 3, 1995).

Void order may be attacked, either directly or collaterally, at any time, In *re Estate of Steinfield*, 630 N.E.2d 801, certiorari denied, See also *Steinfeld v. Hoddick*, 513 U.S. 809, (Ill. 1994).

Void order which is one entered by court which lacks jurisdiction over parties or subject matter, or lacks inherent power to enter judgment, or order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that party is properly before court, *People ex rel. Brzica v. Village of Lake Barrington*, 644 N.E.2d 66 (Ill.App. 2 Dist. 1994).

While voidable orders are readily appealable and must be attacked directly, void order may be circumvented by collateral attack or remedied by mandamus, *Sanchez v. Hester*, 911 S.W.2d 173, (Tex.App. - Corpus Christi 1995).

Arizona courts give great weight to federal courts' interpretations of Federal Rule of Civil Procedure governing motion for relief from judgment in interpreting identical text of Arizona Rule of Civil Procedure, Estate of Page v. Litzenburg, 852 P.2d 128, review denied (Ariz.App. Div. 1, 1998).

When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory, *Orner v. Shalala*, 30 F.3d 1307, (Colo. 1994).

Judgments entered where court lacked either subject matter or personal jurisdiction, or that were otherwise entered in violation of due process of law, must be set aside, *Jaffe and Asher v. Van Brunt*, S.D.N.Y.1994. 158 F.R.D. 278.

"It is a fundamental precept that federal courts are courts of limited jurisdiction, constrained to exercise only authority conferred by Article III of the Constitution

and affirmatively granted by federal statute." In *re Bulldog Trucking,* 147 F.3d 347, 352 (4th Cir.1998) (citations omitted). A federal court cannot assume jurisdiction exists. Rather, the plaintiff is required to specifically plead adequate facts in its complaint to sufficiently establish the court has jurisdiction. *Norton v. Larney,* 266 U.S. 511, 515-16 (1925). A defendant may move for dismissal when a complaint contains a jurisdictional defect. Fed.R.Civ.P. 12(b)(1).

A "void judgment" as we all know, grounds no rights, forms no defense to actions taken there under, and is vulnerable to any manner of collateral attack (thus here, by). No statute of limitations or repose runs on its holdings, the matters thought to be settled thereby are not res judicata, and years later, when the memories may have grown dim and rights long been regarded as vested, any disgruntled litigant may reopen the old wound and once more probe its depths. And it is then as though trial and adjudication had never been. 10/13/58 *FRITTS v. KRUGH. SUPREME COURT OF MICHIGAN*, 92 N.W.2d 604, 354 Mich. 97. On certiorari this Court may not review questions of fact. *Brown v. Blanchard*, 39 Mich 790. It is not at liberty to determine disputed facts (Hyde v. Nelson, 11 Mich 353), nor to review the weight of the evidence. *Linn v. Roberts*, 15 Mich 443; *Lynch v. People*, 16 Mich 472. Certiorari is an appropriate remedy to get rid of a void judgment, one which there is no evidence to sustain. *Lake Shore & Michigan Southern Railway Co. v. Hunt*, 39 Mich 469.

What about default judgments?

Anybody you know been subjected to a default judgment? If you ask an attorney or a judge if there is relief from a default judgment, they will ask if you got notice. They will claim if you got notice, there's nothing you can do 'cause you had the opportunity and didn't answer so you lost - tough luck! This just goes to show how little attorneys and judges know about real law.

EVEN A DEFAULT JUDGMENT MUST BE PROVED!

Oklahoma's law on default judgments =

Trial court could not award damages to plaintiff, following default judgment, without requiring evidence of damages. *Razorsoft, Inc. v. Maktal, Inc.*, Okla.App. Div. 1, 907 P.2d 1102 (1995), rehearing denied.

A party is not in default so long as he has a pleading on file which makes an issue in the case that requires proof on the part of the opposite party in order to entitle him to recover. *Millikan v. Booth, Okla.*, 4 Okla. 713, 46 P. 489 (1896).

Proof of or assessment of damages upon petition claiming damages, it is error to pronounce judgment without hearing proof or assessing damages. *Atchison, T. & S.F. Ry. Co. v. Lambert*, 31 Okla. 300, 121 P. 654, Ann.Cas.1913E, 329 (1912); *City of Guthrie v. T. W. Harvey Lumber Co.*, 5 Okla. 774, 50 P. 84 (1897).

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In the assessment of damages following entry of default judgment, a defaulting party has a statutory right to a hearing on the extent of unliquidated damage, and encompassed within this right is the opportunity to a fair post-default inquest at which both the plaintiff and the defendant can participate in the proceedings by cross-examining witnesses and introducing evidence on their own behalf. *Payne v. Dewitt, Okla.*, 995 P.2d 1088 (1999).

A default declaration, imposed as a discovery sanction against a defendant, cannot extend beyond saddling defendant with liability for the harm occasioned and for imposition of punitive damages, and the trial court must leave to a meaningful inquiry the quantum of actual and punitive damages, without stripping defendant of basic forensic devices to test the truth of plaintiff's evidence. *Payne v. Dewitt*, Okla., 995 P.2d 1088 (1999).

Fracture of two toes required expert medical testimony as to whether such injury was permanent so as to allow damages for permanent injury, future pain, and future medical treatment on default judgment, and such testimony was not within competency of plaintiff who had no medical expertise. *Reed v. Scott*, Okla., 820 P.2d 445, 20 A.L.R.5th 913 (1991).

Rendition of default judgment requires production of proof as to amount of unliquidated damages. *Reed v. Scott*, Okla., 820 P.2d 445, 20 A.L.R.5th 913 (1991).

When face of judgment roll shows judgment on pleadings without evidence as to amount of unliquidated damages then judgment is void. *Reed v. Scott*, Okla., 820 P.2d 445, 20 A.L.R.5th 913 (1991).

In a tort action founded on an unliquidated claim for damages, a defaulting party is deemed to have admitted only plaintiff's right to recover, so that the court is without authority or power to enter a judgment fixing the amount of recovery in the absence of the introduction of evidence. *Graves v. Walters*, Okla.App., 534 P.2d 702 (1975).

Presumptions which ordinarily shield judgments from collateral attacks were not applicable on motion to vacate a small claim default judgment on ground that court assessed damages on an unliquidated tort claim without first hearing any supporting evidence. *Graves v. Walters*, Okla.App., 534 P.2d 702 (1975).

Rule that default judgment fixing the amount of recovery in absence of introduction of supporting evidence is void and not merely erroneous or voidable obtains with regard to exemplary as well as compensatory damages. *Graves v. Walters*, Okla.App., 534 P.2d 702 (1975).

Where liability of father for support of minor daughter and extent of such liability and amount of attorney's fees to be allowed was dependent on facts, rendering of final judgment by trial court requiring father to pay $25 monthly for support of minor until minor should reach age 18 and $100 attorney's fees without having

heard proof thereof in support of allegations in petition was error. *Ross v. Ross*, Okla., 201 Okla. 174, 203 P.2d 702 (1949).

Refusal to render default judgment against codefendant for want of answer was not error, since defendants and court treated answer of defendant on file as having been filed on behalf of both defendants, and since plaintiff could not recover without offering proof of damages and offered no such proof. *Thomas v. Williams*, Okla., 173 Okla. 601, 49 P.2d 557 (1935).

Under R.L.1910, §§ 4779, 5130 (see, now, this section and § 2007 of this title), allegation of value, or amount of damages stated in petition, were not considered true by failure to controvert. *Cudd v. Farmers' Exch. Bank of Lindsay*, Okla., 76 Okla. 317, 185 P. 521 (1919).

Hearing Trial court's discovery sanction barring defendant from using cross-examination and other truth-testing devices at post-default non-jury hearing on plaintiff's damages violated due process. *Payne v. Dewitt*, Okla., 995 P.2d 1088 (1999).

If you or anybody you know has a default judgment, go to the courthouse and check the record. If they failed to prove up their claim-that default judgment is void ab initio subject to vacation without time limitation!

The really big deal, the real issue in void judgments is, tah, dum, de dum, SUBJECT MATTER JURISDICTION!!!! Remember, subject matter can never be presumed, never be waived, and cannot be constructed even by mutual consent of the parties. Subject matter jurisdiction is two part: the statutory or common law authority for the court to hear the case and the appearance and testimony of a competent fact witness, in other words, sufficiency of pleadings.

Even if a court (judge) has or appears to have subject matter jurisdiction, subject matter jurisdiction can be lost. Major reason why subject matter jurisdiction is lost:

(1) fraud upon the court, In *re Village of Willowbrook*, 37 Ill.App.3d 393 (1962)

(2) a judge does not follow statutory procedure, *Armstrong v Obucino*, 300 Ill 140, 143 (1921),

(3) unlawful activity of a judge or undisclosed conflict of interest. Code of Judicial Conduct,

(4) violation of due process, *Johnson v Zerbst*, 304 U.S. 458, 58 S.Ct. 1019 (1938); *Pure Oil Co. v City of Northlake*, 10 Ill.2d 241, 245, 140 N.E.2d 289 (1956); *Hallberg v Goldblatt Bros.*, 363 Ill 25 (1936),

(5) if the court exceeded its statutory authority, *Rosenstiel v Rosenstiel*, 278 F.Supp. 794 (S.D.N.Y. 1967),

15.

(6) any acts in violation of 11 U.S.C. 362(a), (the bankruptcy stay) In *re Garcia*, 109 B.R. 335 (N.D. Illinois, 1989),

(7) where no justiciable issue is presented to the court through proper pleadings, *Ligon v Williams*, 264 Ill.App.3d 701, 637 N.E.2d 633 (1st Dist. 1994),

(8) where a complaint states no cognizable cause of action against that party, *Charles v Gore*, 248 Ill.App.3d 441, 618 N.E. 2d 554 (1st Dist 1993),

(9) where any litigant was represented before a court by a person/law firm that is prohibited by law to practice law in that jurisdiction,

(10) when the judge is involved in a scheme of bribery (the Alemann cases, *Bracey v Warden*, U.S. Supreme Court No. 96-6133 (June 9, 1997),

(11) where a summons was not properly issued,

(12) where service of process was not made pursuant to statute and Supreme Court Rules, *Janove v Bacon*, 6 Ill.2d 245, 249, 218 N.E.2d 706, 708 (1955),

(13) where the statute is vague, *People v Williams*, 638 N.E.2d 207 (1st Dist. 1994),

(14) when proper notice is not given to all parties by the movant, *Wilson v. Moore*, 13 Ill.App.3d 632, 301 N.E.2d 39 (1st Dist. 1973),

(15) where an order/judgment is based on a void order/judgment, *Austin v. Smith*, 312 F.2d 337, 343 (1962);*English v English*, 72 Ill.App.3d 736, 393 N.E.2d 18 (1st Dist. 1979), or

(16) where public policy is violated, *Martin-Tregona v Roderick*, 29 Ill.App.3d 553, 331 N.E.2d 100 (1st Dist. 1975).

SUMMARY OF THE LAW OF VOIDS

Before a court (judge) can proceed judicially, jurisdiction must be complete consisting of two opposing parties (not their attorneys - although attorneys can enter an appearance on behalf of a party, only the parties can testify and until the plaintiff testifies the court has no basis upon which to rule judicially), and the two halves of subject matter jurisdiction = the statutory or common law authority the action is brought under (the theory of indemnity) and the testimony of a competent fact witness regarding the injury (the cause of action). If there is a jurisdictional failing appearing on the face of the record, the matter is void, subject to vacation with damages, and can never be time barred. A question which naturally occurs: "If I vacate avoid judgment, can they just come back and try the case again?" Answer: A new suit must be filed and that can only be done if within the statute of limitations.

16.

VERIFICATION / AFFIDAVIT

Cause No. 006-02654-2017

STATE OF TEXAS

COUNTY OF COLLIN

BEFORE ME, the undersigned Plaintiff, Darlene C. Balistreri-Amrhein, who swore in her capacity & individually on her sworn oath, deposed and said she prepared and signed Plaintiff's Notice of Appeal & Docket Statement & Request finding of facts & Conclusion of Law in May 14, 2018 Order Etc. This information as referenced and stated within is true and correct and of Darlene C. Balistreri-Amrhein's own personal knowledge to the best of her ability & documented. This state and or federal filing is for purpose of "due process," fairness, "due process" & Justice under State and Federal Laws & presented in applicable Courts attached as sited for consideration of this Court filing.

Darlene C. Balistreri-Amrhein

Darlene C. Balistreri-Amrhein, Plaintiff

SUBSCRIBED AND SWORN TO ME, BEFORE ME: ON May 15, 2018 to certify which witness my hand and official seal.

SEAL:

NOTARY PUBLIC STATE OF TEXAS
MALACHI HACKETT
My Commission Expires
October 29, 2018

MALACHI HACKETT

Notary Public of Texas (Printed Name)

Malachi Hackett

Notary Public of Texas (Signature)

Commission Expires 10-29-2018

Electronically Filed 5/8/2018 12:22 PM
Stacey Kemp County Clerk
Collin County, Texas
By: Debbie Crone, Deputy
Envelope ID: 24438724

CAUSE NO. 006-02654-2017

DARLENE C. AMRHEIN, et al, Plaintiffs, v. ATTORNEY LENNIE F. BOLLINGER, AND WORMINTON & BOLLINGER LAW FIRM, Defendants.	COUNTY COURT AT LAW NO. 6 [Hon. Jay Bender] COLLIN COUNTY, TEXAS

ORDER GRANTING DISMISSAL WITH PREJUDICIE AND PROHIBITING NEW LITIGATION BY PLAINTIFF WITHOUT JUDICIAL APPROVAL

Pursuant to Texas Civil Practice & Remedies Code § 11.056 and this Court's April 5, 2018 Order Granting Defendants' Motion to Declare Plaintiff a Vexatious Litigant and to Require Security, and Plaintiff having failed to post security as required by such prior order, the Court hereby DISMISSES THIS LAWSUIT AND ALL CLAIMS AND CAUSES OF ACTION OF PLAINTIFF DARLENE C. AMRHEIN AGAINST ALL DEFENDANTS WITH PREJUDICE.

This Court's April 5, 2018 Order declaring that Plaintiff Darlene C. Amrhein is a Vexatious Litigant under Texas Civil Practice and Remedies Code §11.054 shall remain in effect and is incorporated into this Order.

This judgement is intended to dispose of all issues and parties and is a final judgment. All court costs are taxed against Plaintiff Darlene C. Amrhein.

Signed this ___ day of _____, 2018.

Signed: 5/14/2018 02:26 PM

JUDGE PRESIDING

CIVIL PRACTICE AND REMEDIES CODE

TITLE 2. TRIAL, JUDGMENT, AND APPEAL

SUBTITLE A. GENERAL PROVISIONS

CHAPTER 11. VEXATIOUS LITIGANTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 11.001. DEFINITIONS. In this chapter:

(1) "Defendant" means a person or governmental entity against whom a plaintiff commences or maintains or seeks to commence or maintain a litigation.

(2) "Litigation" means a civil action commenced, maintained, or pending in any state or federal court.

(3) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1224, Sec. 10, eff. September 1, 2013.

(4) "Moving defendant" means a defendant who moves for an order under Section 11.051 determining that a plaintiff is a vexatious litigant and requesting security.

(5) "Plaintiff" means an individual who commences or maintains a litigation pro se.

Added by Acts 1997, 75th Leg., ch. 806, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 9.01, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1224 (S.B. 1630), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1224 (S.B. 1630), Sec. 10, eff. September 1, 2013.

Sec. 11.002. APPLICABILITY. (a) This chapter does not apply to an attorney licensed to practice law in this state unless the attorney proceeds pro se.

(b) This chapter does not apply to a municipal court.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1224 (S.B. 1630), Sec. 2, eff. September 1, 2013.

Exhibit A-1

SUBCHAPTER B. VEXATIOUS LITIGANTS

Sec. 11.051. MOTION FOR ORDER DETERMINING PLAINTIFF A VEXATIOUS LITIGANT AND REQUESTING SECURITY. In a litigation in this state, the defendant may, on or before the 90th day after the date the defendant files the original answer or makes a special appearance, move the court for an order:

(1) determining that the plaintiff is a vexatious litigant; and

(2) requiring the plaintiff to furnish security.

Added by Acts 1997, 75th Leg., ch. 806, Sec. 1, eff. Sept. 1, 1997.

Sec. 11.052. STAY OF PROCEEDINGS ON FILING OF MOTION. (a) On the filing of a motion under Section 11.051, the litigation is stayed and the moving defendant is not required to plead:

(1) if the motion is denied, before the 10th day after the date it is denied; or

(2) if the motion is granted, before the 10th day after the date the moving defendant receives written notice that the plaintiff has furnished the required security.

(b) On the filing of a motion under Section 11.051 on or after the date the trial starts, the litigation is stayed for a period the court determines.

Added by Acts 1997, 75th Leg., ch. 806, Sec. 1, eff. Sept. 1, 1997.

Sec. 11.053. HEARING. (a) On receipt of a motion under Section 11.051, the court shall, after notice to all parties, conduct a hearing to determine whether to grant the motion.

(b) The court may consider any evidence material to the ground of the motion, including:

(1) written or oral evidence; and

(2) evidence presented by witnesses or by affidavit.

Added by Acts 1997, 75th Leg., ch. 806, Sec. 1, eff. Sept. 1, 1997.

Sec. 11.054. CRITERIA FOR FINDING PLAINTIFF A VEXATIOUS LITIGANT. A court may find a plaintiff a vexatious litigant if the defendant shows that there is not a reasonable probability that the plaintiff will prevail in the litigation against the defendant and that:

Exhibit A-1

(1) the plaintiff, in the seven-year period immediately preceding the date the defendant makes the motion under Section 11.051, has commenced, prosecuted, or maintained at least five litigations as a pro se litigant other than in a small claims court that have been:

(A) finally determined adversely to the plaintiff;

(B) permitted to remain pending at least two years without having been brought to trial or hearing; or

(C) determined by a trial or appellate court to be frivolous or groundless under state or federal laws or rules of procedure;

(2) after a litigation has been finally determined against the plaintiff, the plaintiff repeatedly relitigates or attempts to relitigate, pro se, either:

(A) the validity of the determination against the same defendant as to whom the litigation was finally determined; or

(B) the cause of action, claim, controversy, or any of the issues of fact or law determined or concluded by the final determination against the same defendant as to whom the litigation was finally determined; or

(3) the plaintiff has previously been declared to be a vexatious litigant by a state or federal court in an action or proceeding based on the same or substantially similar facts, transition, or occurrence.

Added by Acts 1997, 75th Leg., ch. 806, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1224 (S.B. 1630), Sec. 3, eff. September 1, 2013.

Sec. 11.055. SECURITY. (a) A court shall order the plaintiff to furnish security for the benefit of the moving defendant if the court, after hearing the evidence on the motion, determines that the plaintiff is a vexatious litigant.

(b) The court in its discretion shall determine the date by which the security must be furnished.

(c) The court shall provide that the security is an undertaking by the plaintiff to assure payment to the moving defendant of the moving defendant's reasonable expenses incurred in or in connection with a litigation commenced, caused to be commenced, maintained, or caused to be maintained by the plaintiff, including costs and attorney's fees.

Added by Acts 1997, 75th Leg., ch. 806, Sec. 1, eff. Sept. 1, 1997.

Exhibit A-1

Sec. 11.056. DISMISSAL FOR FAILURE TO FURNISH SECURITY. The court shall dismiss a litigation as to a moving defendant if a plaintiff ordered to furnish security does not furnish the security within the time set by the order.

Added by Acts 1997, 75th Leg., ch. 806, Sec. 1, eff. Sept. 1, 1997.

Sec. 11.057. DISMISSAL ON THE MERITS. If the litigation is dismissed on its merits, the moving defendant has recourse to the security furnished by the plaintiff in an amount determined by the court.

Added by Acts 1997, 75th Leg., ch. 806, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER C. PROHIBITING FILING OF NEW LITIGATION

Sec. 11.101. PREFILING ORDER; CONTEMPT. (a) A court may, on its own motion or the motion of any party, enter an order prohibiting a person from filing, pro se, a new litigation in a court to which the order applies under this section without permission of the appropriate local administrative judge described by Section 11.102(a) to file the litigation if the court finds, after notice and hearing as provided by Subchapter B, that the person is a vexatious litigant.

(b) A person who disobeys an order under Subsection (a) is subject to contempt of court.

(c) A litigant may appeal from a prefiling order entered under Subsection (a) designating the person a vexatious litigant.

(d) A prefiling order entered under Subsection (a) by a justice or constitutional county court applies only to the court that entered the order.

(e) A prefiling order entered under Subsection (a) by a district or statutory county court applies to each court in this state.

Added by Acts 1997, 75th Leg., ch. 806, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 9.02, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1224 (S.B. 1630), Sec. 4, eff. September 1, 2013.

Sec. 11.102. PERMISSION BY LOCAL ADMINISTRATIVE JUDGE. (a) A vexatious litigant subject to a prefiling order under Section 11.101 is

prohibited from filing, pro se, new litigation in a court to which the order applies without seeking the permission of:

(1) the local administrative judge of the type of court in which the vexatious litigant intends to file, except as provided by Subdivision (2); or

(2) the local administrative district judge of the county in which the vexatious litigant intends to file if the litigant intends to file in a justice or constitutional county court.

(b) A vexatious litigant subject to a prefiling order under Section 11.101 who files a request seeking permission to file a litigation shall provide a copy of the request to all defendants named in the proposed litigation.

(c) The appropriate local administrative judge described by Subsection (a) may make a determination on the request with or without a hearing. If the judge determines that a hearing is necessary, the judge may require that the vexatious litigant filing a request under Subsection (b) provide notice of the hearing to all defendants named in the proposed litigation.

(d) The appropriate local administrative judge described by Subsection (a) may grant permission to a vexatious litigant subject to a prefiling order under Section 11.101 to file a litigation only if it appears to the judge that the litigation:

(1) has merit; and

(2) has not been filed for the purposes of harassment or delay.

(e) The appropriate local administrative judge described by Subsection (a) may condition permission on the furnishing of security for the benefit of the defendant as provided in Subchapter B.

(f) A decision of the appropriate local administrative judge described by Subsection (a) denying a litigant permission to file a litigation under Subsection (d), or conditioning permission to file a litigation on the furnishing of security under Subsection (e), is not grounds for appeal, except that the litigant may apply for a writ of mandamus with the court of appeals not later than the 30th day after the date of the decision. The denial of a writ of mandamus by the court of appeals is not grounds for appeal to the supreme court or court of criminal appeals.

Added by Acts 1997, 75th Leg., ch. 806, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 9.03, eff. January 1, 2012.

Exhibit A-1

Acts 2013, 83rd Leg., R.S., Ch. 1224 (S.B. 1630), Sec. 5, eff. September 1, 2013.

Sec. 11.103. DUTIES OF CLERK. (a) Except as provided by Subsection (d), a clerk of a court may not file a litigation, original proceeding, appeal, or other claim presented, pro se, by a vexatious litigant subject to a prefiling order under Section 11.101 unless the litigant obtains an order from the appropriate local administrative judge described by Section 11.102(a) permitting the filing.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1224, Sec. 10, eff. September 1, 2013.

(c) If the appropriate local administrative judge described by Section 11.102(a) issues an order permitting the filing of the litigation, the litigation remains stayed and the defendant need not plead until the 10th day after the date the defendant is served with a copy of the order.

(d) A clerk of a court of appeals may file an appeal from a prefiling order entered under Section 11.101 designating a person a vexatious litigant or a timely filed writ of mandamus under Section 11.102.

Added by Acts 1997, 75th Leg., ch. 806, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 9.04, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1224 (S.B. 1630), Sec. 6, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1224 (S.B. 1630), Sec. 7, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1224 (S.B. 1630), Sec. 10, eff. September 1, 2013.

Sec. 11.1035. MISTAKEN FILING. (a) If the clerk mistakenly files litigation presented, pro se, by a vexatious litigant subject to a prefiling order under Section 11.101 without an order from the appropriate local administrative judge described by Section 11.102(a), any party may file with the clerk and serve on the plaintiff and the other parties to the litigation a notice stating that the plaintiff is a vexatious litigant required to obtain permission under Section 11.102 to file litigation.

(b) Not later than the next business day after the date the clerk receives notice that a vexatious litigant subject to a prefiling order under Section 11.101 has filed, pro se, litigation without obtaining an

Exhibit A-1

order from the appropriate local administrative judge described by Section 11.102(a), the clerk shall notify the court that the litigation was mistakenly filed. On receiving notice from the clerk, the court shall immediately stay the litigation and shall dismiss the litigation unless the plaintiff, not later than the 10th day after the date the notice is filed, obtains an order from the appropriate local administrative judge described by Section 11.102(a) permitting the filing of the litigation.

(c) An order dismissing litigation that was mistakenly filed by a clerk may not be appealed.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1224 (S.B. 1630), Sec. 8, eff. September 1, 2013.

Sec. 11.104. NOTICE TO OFFICE OF COURT ADMINISTRATION; DISSEMINATION OF LIST. (a) A clerk of a court shall provide the Office of Court Administration of the Texas Judicial System a copy of any prefiling order issued under Section 11.101 not later than the 30th day after the date the prefiling order is signed.

(b) The Office of Court Administration of the Texas Judicial System shall post on the agency's Internet website a list of vexatious litigants subject to prefiling orders under Section 11.101. On request of a person designated a vexatious litigant, the list shall indicate whether the person designated a vexatious litigant has filed an appeal of that designation.

(c) The Office of Court Administration of the Texas Judicial System may not remove the name of a vexatious litigant subject to a prefiling order under Section 11.101 from the agency's Internet website unless the office receives a written order from the court that entered the prefiling order or from an appellate court. An order of removal affects only a prefiling order entered under Section 11.101 by the same court. A court of appeals decision reversing a prefiling order entered under Section 11.101 affects only the validity of an order entered by the reversed court.

Added by Acts 1997, 75th Leg., ch. 806, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. 79), Sec. 9.05, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1224 (S.B. 1630), Sec. 9, eff. September 1, 2013.

Exhibit A-1

CIVIL PROCEDURE OUTLINE

I. PERSONAL JURISDICTION

A. Three Traditional Types of Jurisdiction in State Courts: A court must have power to hear a case and enforce its judgment over the parties in the dispute. There are three ways to "get the defendant into court." **[Pennoyer v. Neff (1877).]**

1) **In Personam Jurisdiction**: In Personam Jurisdiction is jurisdiction gained by consent, presence or citizenship.

i) **Consent**: Consent occurs when a party comes into a jurisdiction and essentially consents to be sued there. (Foreign corporation registers in state as a condition of doing business there consents to be sued there). Jurisdiction when domiciled.

ii) **Presence**: Presence means the defendant need be present in the state for the court to have jurisdiction. Jurisidiction when served. The length of time spend in the state is irrelevant, anyone traveling in the state should expect to be sued there.

iii) **Citizenship**: Citizenship means the person is a citizen of the state; state will always have jurisdiction over its citizens.

2) **Quasi in Rem Jurisdiction**: Quasi in Rem Jurisdiction is jurisdiction over the **value** of property; plaintiff must attach (seize) defendant's property before court can have jurisdiction.

3) **In Rem Jurisdiction**: In Rem Jurisdiction is jurisdiction over the property itself within the state's limits. In Rem Jurisdiction is jurisdiction over the land, but not the person.

B. Expanding/Modifying the Test for Jurisdiction: The Test for Jurisdiction has been expanded by the Minimum Contacts Test.

1) **Beginnings of Minimum Contacts Test**: A "bridge" developed in between Pennoyer and the minimum contacts test. **[Hess v. Pawlowski (1927)**: Massachusetts state court does have jurisdiction over nonresident of Massachusetts for traffic accident because of defendant's activity in state.]

i) **Consent**: Use of a forum's highways demonstrates consent to be sued in that state. **[Hess.]**

ii) **Special Appearance**: A court has jurisdiction over a party when the party makes a general appearance. If, however, the party is appearing to contest jurisdiction only, then the defendant is not subject to jurisdiction.

2) **Shift to Minimum Contacts Test**: Beginning with International Shoe, the court expanded jurisdiction wherein there was miminum contacts with the state. **[International Shoe (1945)**: Corporation has businessmen in state, enough for jurisdiction. Court will consider 1) extent of business; 2) relatedness of activities to suit; 3) benefits to employees of being in state; 4) convenience; 5) state interest.]

i) **Systematic and Continuous Activity**: The Court required that the corporation have continuous and systematic activity in the state in order to be subject to the mimimum contacts test.

– and –

ii) **Lawsuit Arises Out of Activity**: If the lawsuit arises out of the Activitity, then the court has jurisdiction.

Exhibit A-2

• **Specific Jurisdiction**: If the act is isolated, the court has jurisdiction over just that act.

• **General Jurisdiction**: If defendant has many contacts and thus much activity, then the defendant can be sued over all matters.

3) **The Minimum Contacts Test**: The Mimimum Contacts Test has turned into a two prong test: Minimum contacts occur through the use of a state's Long Arm Statute, often pushed by the state as much as the 14th Amendment allows.

1) **Purposeful Availment**: The prong of personal availment focuses on the activities of the defendant: the **extent** of defendant's commercial activities are considered; if another **business is directly affected**; if defendant enjoys the **benefits of the laws** of the forum state; **foreseeability** and whether the defendant can expect to be hauled into court. [**Gray v. American Radiator (1961)**: Plaintiff injured when water heater exploded, manufactured all over, jurisdiction upheld in Illinois.] [**Burger King Corp (1985)**: Owning Burger Kings in Michigan headquartered in Miami sufficient for Florida jurisdiction.] [**Worldwide Volkswagen (1980)**: Driving VW in Oklahoma not sufficient for jurisdiction in Oklahoma, bought in NY, etc.]

• [**Helicopteros**: Higher mimimum contacts test is required of a foreign corporation.]

2) **Reasonableness**: In considering reasonableness, the court will consider such factors as whether the **exercise of jurisdiction is reasonable** and whether the **plaintiff's interest** is proper; burden on the defendant, the state's interest in settling the dispute; desire to achieve efficient resolution; shared interest of several states; fairness. [**Keeton v. Hustler Magazine (1984)**: Plaintiff not local but jurisidiction upheld, Hustler sold 10,000 to 15,000 magazines a year in forum state.]

• **Foreign Corporation**: Jurisdiciton over foreign corporations may not be reasonable. [**Asahi Metal Industry Co. v. Superior Court (1987)**: Parties could settle despute in Taiwan or Japan.]

C. Personal Jurisdiction in Federal Courts:

1) **FRCP 4(k)(1)(A) & (D)**: A federal courts do not exercise "nationwide jurisdiction." Federal courts can have personal jurisdiction through use of the Long Arm Statute of the forum state in which the federal court is located or through a federal statute.

2) **FRCP 4(k)(2)**: If a plaintiff cannot reach a defendant through any individual state's Long Arm Statute, then the plaintiff can reach the defendant in federal court (usually a foreign defendant).

D. Challenging Personal Jurisdiction:

1) **State Court**: Challenging personal jurisdiction in state court varies from state to state. Making a special appearance to challenge jurisdiction is generally not a waiver. Making a general appearance and arguing on the merits is usually not a waiver, either. In some state, a general appearance is a waiver.

2) **Federal Court**: Rule 12 abolishes the difference between general and special appearance.

i) **FRCP 12(b)**: One may object to jurisdiction along while also arguing merits.

ii) **FRCP 12(h)(1)(B)**: Challenge to jurisdiction must be made at outset, if defendant loses case, defendant must challenge jurisdiction immediately; decision is binding.

Exhibit A-2

II. NOTICE

1) **Notice**: Notice requires that the defendant receive proper "notice" of the lawsuit pending.

i) **Reasonable Efforts**: In order to provide notice, the plaintiff's efforts must be reasonably calculated, it must have a reasonable prospect of giving actual notice. [**Mullane v. Central Hanover Bank**: Notifying other bank beneficiaries, "means employed must be such as one desirous of actually informing the absentee might reasonable adopt to accomplish it."]

ii) **Sufficiency of Publication**:

- **Persons With Known Whereabouts**: Notice of at least first class mail is sufficient.
- **Persons with Address Unknown**: Publication is sufficient.
- **Real Estate**: Attachment of Real Estate and publication may be sufficient, people usually are aware of their possessions.

iii) **Default Rule**: By default, notice should be given by first class mail. [**Mullane**: "Mails today are recognized as an efficient and inexpensive means of communication."

iv) **No Notice, Due Process Violation**: If the defendant does not receive notice, defendant can object, earlier judgment will not be binding.

v) **If Notice is Constitutional**: If notice is constitutional, and the defendant still does not know, judgment is still binding.

III. SERVICE OF PROCESS

Notice is usually service of a summons and a complaint on the defendant directing the defendant to answer or suffer a default judgment, service should be liberally construed.

1) **FRCP 4(d)**: Waiver of Service: A plaintiff can request from the defendant that the defendant waive formal service. The defendant has a duty to avoid unnecessary costs of serving the actual summons. If the defendant does not have good cause as to why formal service should not be waived, the defendant will incur the costs of the formal service. Waiver is not a basis for default judgment.

2) **FRCP 4(e)**: Service Upon Individuals: If the defendant does not waive service of process, then service may be pursuant to the law of the state in which the district court resides or the state in which the service is effect [**FRCP 4(e)(1)**]; OR by personal hand delivery; OR leaving the hand delivery at the defendant's "usual place of abode" with someone of suitable age. [**FRCP 4(e)(2)**].

i) **Immunity from Process**: In some jurisdictions, witnesses, parties or attorneys or anyone else in the state to participate in a legal proceeding is immune from process.

ii) **Fraudulent Service**: If the defendant is lured into a jurisdiction with the intent of serving the defendant, the service is fraudulent and invalid. [**Wyman v. Newhouse**: Plaintiff lures defendant to airport to see him "one last time."] If the defendant is already in the jurisdiction, however, then luring to a specific place to serve process is valid.

3) **FRCP 4(h)**: Service Upon Corporations: Service can be made on corporations in a manner similar to those prescribed in 4(e)(1); OR on officers or agents authorized by appointment to receive service. [**Hellenic Challenger**.]

Exhibit A - 2

Texas Back Institute®

February 6, 2018

Re: Darlene Amrhein

To: Whom It May Concern,

Ms. Darlene Amrhein is a 71yr old female who was evaluated on 1/26/18 secondary to cervical and lumbar related diagnoses: M47.12 cervical myelopathy, M99.31 osseous stenosis of neural canal of cervical region, M43.16 lumbar spondylolisthesis, and M99.33 osseous stenosis of neural canal of lumbar region. These diagnoses do require surgical intervention as they are currently affecting bodily function with complaints of urinary incontinence and retention, in addition to increasing difficulty with gait and coordination which can pose a threat for somebody with a diagnosis of cervical myelopathy. Pt has had to modify her daily activities; she is currently ambulating with a cane. First, I would address her cervical myelopathy with a posterior spinal fusion from C3-4 with laminectomy; this surgery is medically necessary in order to correct the level of severe cervical stenosis while providing vertebral stability. Then, I'd need to address her lumbar issues with an open 360 L4-S1. Her total post op disability time will be approximately 6 months post-operatively. Routine follow ups will be necessary in order for us to evaluate her return to work status closer to that 6 month post-op marker. Pt did require urgent work up as her symptoms have definitely deteriorated. Please contact my offices in the events that more information is necessary or in the events that clarification is needed. Our phone number is 972-608-5000; our fax number is 972-608-5160.

Respectfully,

Rajesh G. Arakal, M.D.

Exhibit B (plus 3 more letters) Not

Cause No. 006-02654-2017

DARLENE C. AMRHEIN, Plaintiff, Pro Se **IN THE COUNTY COURT AT**

VS. **LAW NO. 6**

ATTORNEY LENNIE BOLLINGER, et al **COLLIN COUNTY, TEXAS**

WORMINGTON & BOLLINGER LAW FIRM, ET AL, AND ADDED DEFENDANTS: PROSPERITY BANK, et al, VP. JO'EL ELONY, KEENA CLIFTON, NAOMI THAMES, CHRISTINA SANDERS, SANDRA MCDONALD, SUSAN ALGER, et al, MUSKAT, MAHONY, DEVINE LAW FIRM , ET AL, ATTORNEY MICHELLE MAHONY, ATTORNEY JOHN GRUFF, UNITED STATES EASTERN DISTRICT COURT, MAGISTRATE JUDGE CHRISTINE NOWAK, COBB, MARTINEZ, WOODLAND LAW FIRM ATTORNEY CARRIE JOHNSON PHANEUF, COUNTY COURT AT LAW NO. 6 AND JUDGE JAY BENDER, ALL DEFENDANTS

PLAINTIFF'S NOTICE OF APPEAL AND DOCKET STATEMENTS

COMES NOW, Plaintiff, Darlene C. Balistreri-Amrhein, to file Plaintiff's Notice of Appeal And Docket Statements for the following "good cause" reasons & court record requests to brief:

I. Serious Medical Considerations For This Appeal

1) Plaintiff Amrhein believes that a Notice of Appeal is timely with the above Courts final Order judgment was on May 14, 2018, when first given any notice with no date or court stamp;

2) Plaintiff Amrhein maybe in one of 3 legal surgeries or in hospital or rehabilitation center at time of filing from neck surgery, spine fusion surgery or 4 torn tendons & meniscus knee repairs from Feb. 28, 2018 fall, legal medical evaluations, labs, tests for needed clearances on death risk

3) The neck surgery was being repeated from an auto accident, while Plaintiff was waiting at stop light & was rear ended by a person going 60 miles per hour, bending her SUV, he gets stuck under SUV, & Plaintiff is knocked out unconscious, head, back, neck & shoulder injuries that has to be redone as failing neck & back requiring a spinal fusion as very serious operations, which cannot be done together or even within weeks as Plaintiff is a high risk diabetic patient;

4) Plaintiff reported these serious painful medical conditions & medical treatments required back in January, 2018 upon discovery & pain reported to physicians, which was also affecting Plaintiff's bodily functions has been ignored & denied by this Court, Judges & Defendants;

Note: Serious medical circumstances can't be compromised. To deny "Medical Stay" is a cold - hearted agenda to take advantage & prejudice ill, disabled, "class protected Plaintiff" & shows depth of discriminations, agenda, goals, bias & violations of Federal & Texas Laws. A Motion for Reconsideration works for reasonable people, not corruption goals, so would be wasted time.

1. Exhibit C

Texas Health
Physicians Group

TEXAS CENTER FOR JOINT REPLACEMENT
6020 West Parker Rd
Suite 470
Plano TX 75093-8338
Phone: 972-608-8868
Fax: 972-608-0366

Date: 5/9/2018

Roger H. Emerson, Jr., MD
Richard D. Reitman, MD
Kwame Ennin, MD
Karim Elsharkawy. MD

TO WHOM IT MAY CONCERN

RE: RETURN TO WORK STATUS

This letter is to certify that Darlene Carol Amrhein is a patient under my care. She will be undergoing surgery with me due to internal derangement of the right knee. My request to have her off of work until further notice. If you have any questions, please give our office a phone call.

Sincerely,

Dr. Reitman

Exhibit D

VERIFICATION / AFFIDAVIT

NO. 006-02654-2017

STATE OF TEXAS

COUNTY OF COLLIN

BEFORE ME, the undersigned Plaintiff, Darlene C. Balistreri-Amrhein, who swore in her capacity & individually on her sworn oath, deposed and said she prepared and signed Plaintiff's ~~Request Findings of Facts and~~ Conclusion of Law in May 14, 2018 Court Order ~~As Missing & Required, Etc.~~ DA

This information as referenced and stated within is true and correct and of Darlene C. Balistreri-Amrhein's own personal knowledge to best of her ability & documented. This state and or federal filing is for purpose of "due process," fairness, Justice under State and Federal Laws & presented in applicable Court attached as sited for this Court filing.

Darlene C. Balistreri-Amrhein

Darlene C. Balistreri-Amrhein, Plaintiff, Pro Se

SUBSCRIBED AND SWORN TO ME, BEFORE ME: ON 18th OF April, 2018 to Certify which witness my hand and official seal.

SEAL:

EMMANUEL VELAZQUEZ
Notary ID #131061768
My Commission Expires
March 27, 2021

Emmanuel Velazquez Ramirez

Notary Public of Texas (Printed Name)

Notary Public of Texas (Signature)

Commission Expires 03/27/2021

Certificate of Service

A true and correct and copy of Plaintiff's Request Finding of Facts & Conclusion Of Law In May 14, 2018 Order As Missing & Required, Etc. has been served by certified mail & or courier through United States Post Office on or about May 16, 2018 to following:

Judge Ray Wheless 366th District Court or — Courier

& Judge Jay Bender County Court at Law No. 6

Collin County, Texas

Cobb, Martinez, Woodland, et al — Certified Mail 7017 3380 0001 0024 5120

1700 Pacific Ave, Suite # 3100

Dallas, TX. 75201

Respectfully submitted,

Darlene C. Balistreri-Amrhein

Darlene C. Balistreri-Amrhein, Plaintiff, Pro Se

5/16/18